

**R277. Education, Administration.**

**R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions.**

**R277-609-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Discipline" includes:
  - (1) imposed discipline; and
  - (2) self-discipline.
- C. "Disruptive student behavior" includes:
  - (1) the grounds for suspension or expulsion described in Section 53A-11-904; and
  - (2) the conduct described in Subsection 53A-11-908(2)(b).
- D. "Emergency safety intervention" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others, and the intervention is not for disciplinary purposes.
- E. "Functional Behavior Assessment (FBA)" means a systematic process of identifying problem behaviors and the events that reliably predict occurrence and non-occurrence of those behaviors and maintain the behaviors across time.
- F. "Immediate danger" means the imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm.
- G. "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.
- H. "LEA" or "local education agency" means a school district, charter school or, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- I. "Physical restraint" means personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.
- J. "Plan" means a school district-wide and school-wide written model for prevention and intervention for student behavior management and discipline procedures for students.
- K. "Program" means instructional or behavioral programs including those provided by contract private providers under the direct supervision of public school staff, that receives public funding or for which the USOE has regulatory authority.
- L. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that defines hazing, bullying, cyber-bullying, and harassment, prohibits hazing and bullying, requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, discipline, emergency safety interventions, and harassment among school employees and students, and provides for enforcement through employment action or student discipline.
- M. "Qualifying minor" means a school-age minor who:
  - (1) is at least nine years old; or
  - (2) turns nine years old at any time during the school year.
- N. "School" means any public elementary or secondary school or charter school.
- O. "School board" means:
  - (1) a local school board; or
  - (2) a local charter board.
- P. "School employee" means:
  - (1) a school teacher;
  - (2) a school staff member;

- (3) a school administrators; or
- (4) any other person employed, directly or indirectly, by an LEA.

Q. "Seclusionary time out" means that a student is:

- (1) placed in a safe enclosed area:

- (a) by school personnel; and

- (b) in accordance with the requirements of R392-200 and R710-4-3;

- (2) purposefully isolated from adults and peers; and

- (3) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

R. "Section 504 accommodation plan," required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

S. "Self-Discipline" means a personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

T. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

### **R277-609-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities, Subsection 53A-1-402(1)(b) which requires the Board to establish rules concerning discipline and control, Section 53A-15-603, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction, and Section 53A-11-901, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

B. The purpose of this rule is to outline requirements for school discipline plans and policies. The written policies shall include direction to LEAs to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

### **R277-609-3. LEA Responsibility to Develop Plans.**

A. Each LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, and school discipline.

B. The plan described in R277-609-3A shall include:

- (1) the definitions of Section 53A-11-910;

- (2) written standards for student behavior expectations, including school and classroom management;

- (3) effective instructional practices for teaching student expectations, including self-discipline, citizenship, civic skills, and social skills;

- (4) systematic methods for reinforcement of expected behaviors and uniform methods for correction of student behavior;

- (5) uniform methods for at least annual school level data-based evaluations of efficiency and effectiveness;
- (6) an ongoing staff development program related to development of:
  - (a) student behavior expectations;
  - (b) effective instructional practices for teaching and reinforcing behavior expectations;
  - (c) effective intervention strategies; and
  - (d) effective strategies for evaluation of the efficiency and effectiveness of interventions;
- (7) procedures for ongoing training of appropriate school personnel in:
  - (a) crisis intervention training;
  - (b) emergency safety intervention professional development; and
  - (c) LEA policies related to emergency safety interventions consistent with evidence-based practice;
- (8) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;
- (9) policies and procedures related to bullying, cyber-bullying, harassment, hazing, and retaliation consistent with requirements of R277-613; and
- (10) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:
  - (a) subject to the requirements of R277-609C, physical restraint except when a student:
    - (i) presents a danger of serious physical harm to self or others; or
    - (ii) is destroying property;
  - (b) prone, or face-down, physical restraint; supine, or face-up, physical restraint;
  - (c) physical restraint that obstructs the airway of a student, or any physical restraint that adversely affects a student's primary mode of communication;
  - (d) mechanical restraint, except those protective, stabilizing or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, including seatbelts or any other safety equipment when used to secure students during transportation;
  - (e) chemical restraint, except as:
    - (i) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and
    - (ii) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;
  - (f) subject to the requirements of R277-609, seclusionary time out, except when a student presents an immediate danger of serious physical harm to self or others.
  - (g) for a student with a disability, emergency safety interventions written into a student's individualized education program (IEP), as a planned intervention, unless school personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in R277-608-4 have been attempted, a FBA has been conducted, and a positive behavior intervention plan based on data analysis has been written into the plan and implemented; and
  - (11) the policies and procedures explicitly include all the requirements in this rule.

C(1) All physical restraint must be immediately terminated when student is no longer an immediate danger to self or others, or if student is in severe distress.

(2) The use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria (as outlined in LEA policies) must be implemented.

(3) If a public education employee physically restrains a student:

(a) the school or the public education employee shall immediately notify the student's parent or guardian and school administration; and

(b) the public education employee may not use physical restraint on a student for more than 30 minutes.

(4) In addition to the notice described in R277-609-3C(3), if a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(5) An LEA may not use physical restraint as a means of discipline or punishment.

D(1) If a public education employee uses seclusionary time out, the public education employee shall:

(a) use the minimum time necessary to ensure safety;

(b) use a release criteria (as outlined in LEA policies);

(c) ensure that any door remains unlocked; and

(d) maintain the student within line of sight of the public education employee.

(2) If a student is placed in seclusionary time out:

(a) the school or the public education employee shall immediately notify:

(i) the student's parent or guardian; and

(ii) school administration; and

(b) the public education employee may not place a student in a seclusionary timeout for more than 30 minutes.

(3) In addition to the notice described in R277-609-3D(2), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(4) Seclusionary time may only be used for maintaining safety and a public education employee may not use seclusionary time out as a means of discipline or punishment.

E. A plan described in R277-609-3A shall also:

(1) provide direction for dealing with bullying and disruptive students;

(2) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(3) provide for identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;

(4) designate to whom notices of disruptive and bullying student behavior shall be provided;

(5) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

- (6) include strategies to provide for necessary adult supervision;
- (7) require that policies be clearly written and consistently enforced;
- (8) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and
- (9) provide notice to employees that violation of this rule may result in employee discipline or action.

F. A plan required under this R277-609-3:

- (1) shall include gang prevention and intervention policies;
- (2) shall account for an individual LEA's or school's unique needs or circumstances including the role of law enforcement and emergency medical services (EMS);
- (3) may include the provisions of Subsection 53A-15-603(2); and
- (4) shall provide for publication of notice to parents and school employees of policies by reasonable means.

#### **R277-609-4. Implementation.**

A. An LEA shall implement strategies and policies consistent with the LEA's plan required in R277-609-3A.

B. An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

C. An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies. (Least Restricted Behavioral Interventions Technical Assistance Manual).

D(1) An LEA shall provide a formal written assessment of a habitually disruptive student as part of a student's suspension or expulsion process that results in court involvement, once an LEA receives information from the court[s] that disruptive student behavior will result in court action.

(2) An LEA shall use assessment information to connect parents and students with supportive school and community resources.

E. Nothing in state law or this rule restricts an LEA from implementing policies to allow for suspension of students of any age consistent with due process requirements and consistent with all requirements of the Individuals with Disabilities Education Act 2004.

F. An LEA shall establish an Emergency Safety Intervention (ESI) Committee before September 1, 2015.

G. The LEA ESI Committee:

- (1) shall include:
  - (a) at least two administrators;
  - (b) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and
  - (c) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;
- (2) shall meet often enough to monitor the use of emergency safety intervention in

the LEA;

(3) shall determine and recommend professional development needs; and

(4) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.

H. An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

I. The Superintendent shall define the procedures for the collection, maintenance, and review of records described in R277-609-4H.

J. An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

#### **R277-609-5. Special Education Exception(s) to this Rule.**

A. An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

B. The Superintendent shall periodically review:

(1) all LEA special education behavior intervention plans, procedures, or manuals; and

(2) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System (UPIPS).

#### **R277-609-6. Parent/Guardian Notification and Court Referral.**

A. Through school administrative and juvenile court referral consequences, LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

B. An LEA shall establish policies that:

(1) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(2) provide for notices of disruptive behavior to be issued by schools to qualifying minor(s) and parent(s) consistent with:

(a) numbers of disruptions and timelines in accordance with Section 53A-11-910;

(b) school resources available;

(c) cooperation from the appropriate juvenile court in accessing student school records, including attendance, grades, behavioral reports and other available student school data; and

(d) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

C(1) When a crisis situation occurs that requires the use of an emergency safety intervention to protect the student or others from harm, a school shall notify the LEA and the student's parent or guardian as soon as possible and no later than the end of the school day.

(2) If a crisis situation occurs and an emergency safety intervention is used, a school shall immediately notify:

(a) a student's parent or guardian; and

(b) school administration.

(3) In addition to the notice described in R277-609-6C(2), if a crisis situation occurs for more than fifteen minutes, the school shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(4) A notice described in R277-609-6C2 shall be documented within student information systems (SIS) records.

D(1) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during a crisis situation upon request of the parent or guardian.

(2) Within 24 hours of a crisis situation, a school shall notify a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during a crisis situation.

(3) A parent or guardian may request a time to meet with school staff and administration to discuss the crisis situation.

#### **R277-609-7. Model Policies.**

A. The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

B. The Superintendent shall develop model policies required under R277-609-3A(10) to assist LEAs.

C. The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

#### **R277-609-8. LEA Compliance.**

If an LEA fails to comply with this rule, the Superintendent may disrupt state aid or impose any other sanction authorized by law.

**KEY: disciplinary actions, disruptive students, emergency safety interventions**

**Date of Enactment or Last Substantive Amendment: September 3, 2015**

**Notice of Continuation: August 2, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(b); 53A-15-603; 53A-11-901**